and privileges, a gas company by obtaining an extension of its charter did not surrender its proprietary or contractual right to use the streets of a city, where it had acquired a grant of such right for an indefinite time.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 543.]

Error to Hustings Court of Portsmouth.

Information in the matter of quo warranto by the Commonwealth, on relation of the City of Portsmouth, against the Portsmouth Gas Company. Judgment for defendant on demurrer, and the relator brings error. Affirmed.

Mann & Tyler, of Norfolk, for plaintiff in error.

Goodrich Hatton, of Portsmouth, for defendant in error.

BARKER *v.* COMMONWEALTH. (No. 72.)

June 20, 1922.

[112 S. E. 798.]

Criminal Law (§ 565*)—Evidence Held Insufficient to Establish Dates of Sales of Liquor.—Evidence on a trial for the sale of ardent spirits held insufficient to establish the dates of sales as within 12 months prior to indictment.

[Ed. Note.—For other cases, see 8 Va. W. Va. Enc. Dig. 34.]

Error to Circuit Court, Lee County.

Bill Barker was convicted for the illegal sale of ardent spirits, and he brings error. Reversed and remanded.

Pennington & Pennington, of Pennington Gap, for plaintiff in error.

John R. Saunders, Atty. Gen., and *J. D. Hank, Jr., Asst. Atty. Gen.,* for the Commonwealth.

COOPER *v.* COMMONWEALTH. (No. 75.)

June 20, 1922.

[112 S. E. 799.]

1. Indictment and Information (§§ 86 (3), 87 (4)*)—Allegation of Particular Place and Time Held Not Necessary.—An indictment for violation of the prohibition act need not allege a sale at any particular time or place if the time is within one year prior to indictment.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 241.]

2. Criminal Law (§ 1202 (3)*)—In a Prosecution for Second Violation of Prohibition Law, Evidence Held to Establish First Offense.—In a prosecution for a second violation of Prohibition Law, §§ 3, 3a, 4, and 5, a judgment reciting that accused had been convicted "on an

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*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

indictment for violation of the Mapp Law (new case)" the "Map Law" being the common designation of the state prohibition statute, was sufficient to establish former conviction.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 341.]

3. Criminal Law (§ 1211*)—Conviction of any Provision of Prohibition Act Held to Support Imposition of Penalty for Second Offense.—Under Prohibition Law, § 5, conviction of a prior violation of any provision of the act before the second offense is sufficient to support the imposition of the penalty as for a second offense.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 341.]

Error to Circuit Court, Lee County.

Richard Cooper was convicted of violating the prohibition law, and he brings error. Affirmed.

Pennington & Pennington, of Pennington Gap, for plaintiff in error.

John R. Saunders, Atty. Gen., and *J. D. Hank, Jr., Asst. Atty. Gen.,* for the Commonwealth.

MEANLEY *v.* PETERSBURG, H. & C. P. RY. CO.

June 15, 1922.

[112 S. E. 800.]

1. Carriers (§ 337*)—Person at Electric Railroad Station to Meet Incoming Passenger Held Guilty of Contributory Negligence When Struck by Gate of Passing Car.—Where it appeared that plaintiff suing for personal injuries was standing on a platform of an electric railway station not intended for the use or accommodation of the public, which was warned against its use at this place by signs, and that when about to take a child through a rear window from a woman there with him to meet an incoming passenger, he was struck by the rear door of one of defendant's passing cars, proceeding around the station very close to the wall, held that he was guilty of contributory negligence, though he testified no alarm signals were given, and he did not know the car was passing until he was struck.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 704.]

2. Carriers (§ 340*)—Person, Injured at Station Where He Went to Meet an Incoming Passenger, Held Entitled to Recover Where Carrier Could by Ordinary Care Have Avoided the Accident.—Where an injured person went to electric railway station to meet an incoming passenger, he was an invitee, and not a mere trespasser, and his negligence in going to an unsafe place a short distance from a safe place where he had a right to be did not relieve the carrier from every obligation except not to injure him willfully, and if it appeared that un-

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*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.